

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:11-CR-31-BR

UNITED STATES OF AMERICA)	
)	
v.)	ORDER
)	
TERRENCE MAURICE MCNEILL)	
)	

This matter is before the court on defendant's *pro se* motion to appoint counsel to assist him in seeking reinstatement of his federal benefits, so he might further his education. (DE # 129.)

In 2012, as part of defendant's sentence for distribution of 50 grams or more of cocaine base, the court ordered defendant permanently ineligible for certain federal benefits pursuant to 21 U.S.C. § 862(a)(1)(C). (J., DE # 40, at 7.) Upon his release from incarceration, defendant began serving a five-year term of supervised release. However, in 2018, after concluding defendant violated the terms and condition of supervised release by using a controlled substance, the court ordered defendant incarcerated for one day and "revoked" (i.e., terminated) the remaining term of supervised release. Defendant has no proceeding pending against him in this court. As such, he is not entitled to the appointment of counsel, see 18 U.S.C. § 3006A(a)(1), and his motion is DENIED.

The court notes that defendant may file *pro se* a motion to restore his eligibility for federal benefits. To obtain relief, defendant must sufficiently show that he

- (A) complete[d] a supervised drug rehabilitation program after becoming ineligible [for federal benefits];
- (B) has otherwise been rehabilitated¹; or
- (C) has made a good faith effort to gain admission to a supervised drug rehabilitation program, but is unable to do so because of inaccessibility or unavailability of such a program, or the inability . . . to pay for such a program.

¹ The statute does not define "otherwise been rehabilitated." See 21 U.S.C. § 862. The determination of whether an individual meets this condition is fact-specific. See United States v. Mack, No. 2:04-CR-49-FTM-29SPC, 2018 WL 564547, at *4-5 (M.D. Fla. Jan. 26, 2018).

21 U.S.C. § 862(c). The court expresses no opinion on the likelihood of success of such a motion, should defendant choose to file one.

This 23 July 2019.

A handwritten signature in green ink, appearing to read "W. Earl Britt", is written over a horizontal line.

W. Earl Britt
Senior U.S. District Judge